



Prosecuting Attorneys Association of Michigan

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The Honorable Rick Jones
Chairman, Senate Judiciary Committee
P.O. Box 30036
Lansing, MI 48909

April 28, 2015

Re: SB 251

Dear Senator Jones:

The Prosecuting Attorneys Association of Michigan supports SB 251 as introduced.

As in the HYTA bill last week, the issue is one of separation of powers. The prosecuting attorney has the executive function to charge a case. The judge has the constitutional authority to sentence a person who is found guilty. The judge does not have the constitutional authority to divert or dismiss a criminal charge without first finding the evidence insufficient to prove guilt beyond a reasonable doubt.

SB 251 creates a statute to allow for the consent calendar. That statute should comport with the other statutes that allow for deferred convictions and dismissals recognizing the separation of powers between the executive and judiciary functions.

Prosecutor consent is required in such other diversionary statutes as:

PROSECUTOR CONSENT REQUIRED

Domestic Violence	MCL 769.4A	1994 PA 68
Health Professional Practicing while impaired	MCL 750.430	2003 PA 235
Drug Treatment Courts	MCL 600.1060	2004 PA 224
Veterans Courts	MCL 600.1200	2012 PA 335
Mental Health Courts	MCL 600.1090	2013 PA 276
Delayed Sentencing Act		

The introduced bill establishes the consent calendar and lines it up with the requirements of the other statutes listed above.

Thank you for your consideration.

Victor Fitz
President, Prosecuting Attorneys Association of Michigan
Cass County Prosecuting Attorney